IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE FIFTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 4212 of 2004

Between:
Mahmooda Fatima, W/o Syed Samiuddin Hashmi,
R/o H.No.19-4-321/4/B, Kishan Bagh, Hyderabad.
..... PETITIONER

AND

1 The Commissioner of Police, Hyderabad.
2 The Inspector of Police, Women Police Station, South Zone, Hyderabad.
3 Syed Samiuddin Hashmi @ Sanno, s/o Mohiuddin Hashmi, R/o H.No.19-5-32/17/C/2, Asal Baba Nagar, Kishan Bagh, Hyderabad.
4 The Regional Passport Officer, Secunderabad
(R4 is impleaded as per Court order dated 05.07.2004 in W.P.M.P.No.1152 of 2004)
.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or Orders or direction particularly Writ of Mandamus declaring the action of the respondents No.1 and 2 in not investigating into the case in Crime No.25/2001, Women Police Station, South Zone, Hyderabad, and filing a report under Sec.173 Cr.P.C.is illegal and against the natural justice

For the Petitioner: MR.T.PRADYUMNA KUMAR REDDY, Advocate

For the Respondent No.: GP FOR HOME

The Court made the following ORDER:

This writ petition is filed by the petitioner aggrieved by the inaction of the respondents with reference to a private complaint filed by her, which was referred to by the XXII Metropolitan Magistrate, Hyderabad for investigation to the second respondent, which was registered as Crime No.25 of 2001.

2. According to the petitioner, the said complaint was registered under the provisions of Sections 498-A and 406 of the Indian Penal Code and Sections 4 and 6 of the Dowry Prohibition Act. It is the case of the petitioner that the Police after completion of the investigation filed a charge sheet on 02.06.2001 against accused Nos.2 to 7, who are the family members of the third respondent herein, which was later numbered as C.C.No.392 of 2001 on the file of XXII Metropolitan Magistrate, Hyderabad. But, with reference to third respondent, the police did not take any steps to get him back, who is stated to be outside the country. It is also stated that the respondents know the whereabouts of the third respondent, as it is specifically stated in the counter-affidavit itself that the third respondent is staying at Kingdom of Saudi Arabia with passport No. L 009477 as well as with a specific address. But, however, the official respondents did not take any steps to get the passport of the third respondent impounded either before the Magistrate or with the passport authorities. Therefore, the petitioner has come up with the present writ petition alleging the inaction on the part of the official respondents.

3. At the time of hearing, the learned counsel for the petitioner also placed reliance on the judgment of this Court in **KODALI NAGESWARA RAO v. KONERU VENU**[1], wherein this Court held that proceedings can be initiated for impounding or cancellation of the passport, in view of initiation of criminal proceedings by the Police.

4. In the light of the above judgment, the learned counsel sought for a direction to the official respondents to take steps to get the passport of the third respondent impounded or cancelled and to intimate the said proceedings to the Country where the third respondent is staying, so as to get him back to India for production before the appropriate Court.

5. A counter-affidavit has been filed on behalf of respondents 1 and 2 narrating the private complaint filed before the XXII Metropolitan Magistrate, Hyderabad as well as the reference of the same for investigation to the second respondent. It is also stated that the said case was investigated and a charge sheet was filed as referred to by the petitioner. But insofar as the third respondent is concerned, as he was not available, no action could be taken. In the counter-affidavit it has been specifically stated that the third respondent is staying at Kingdom of Saudi Arabia and the details of the passport number as well as the address of the third respondent are also given.

6. At the time of hearing, the learned Government Pleader for Home stated that the respondents would take appropriate action for impounding or cancellation of the passport of the third respondent, so as to see that the third respondent is deported to India.

7. Heard both sides and considered the material available on record.

8. In view of the fact that a case is registered against the third respondent, the official respondents are directed to take appropriate steps either for impounding or cancellation of the passport of the third respondent, who is stated to be residing in Kingdom of Saudi Arabia and see that he should be deported from that Country and produce before the Criminal Court, where the matter is pending. The said action is directed to be initiated and completed expeditiously, preferably within a period of three months.

9. The writ petition is accordingly disposed of with the above directions.

05.07.2004

Note: Furnish CC in 3 days

B/o

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To

1 The Commissioner of Police, Hyderabad.
2 The Inspector of Police, Women Police Station, South Zone, Hyderabad.
3 Two CCs to G.P. for Home, High Court of A.P. Buildings, Hyderabad (OUT)
4 Two CD Copies
5 The Regional Passport Officer, Secunderabad

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[1] 1998 (5) ALD 563